UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,207	03/25/1999	WILLIAM CARTER CARROLL BULLARD	10360/009001	1809

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DENIS G MALONEY
FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON, MA   021102804

EXAMINER
AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
2164	

DATE MAILED: 12/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____3_____ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing da communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. §
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _____12/3/01_____.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _____1-20_____ is/are pending in the application.

    4a) Of the above, claim(s) _____ is/are withdrawn from consider

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _____1-20_____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election require

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

    a) ☐ All b) ☐ Some* c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other: _____

DETAILED ACTION

Response to Continued Prosecution Application

1. This action is in reply to applicant's Continued Prosecution Application(CPA)(Paper # 10) filed

12/3/01.

2. Applicant added new claims 11-20. No claims were cancelled. None were newly amended.

3. Claims 1-20 are pending.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United
> States before the invention thereof by the applicant for patent, or on an international application by another who
> has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention
> thereof by the applicant for patent.

5.   Claims 1-3, and 11-14 are rejected under 35 USC 102(e) as unpatentable over

Egendorf(US Pat. No: 5,794,221).

6. As per claim 1 Egendorf teaches a computer implemented method(col 4 lines 40-56)

comprising providing a subscriber with a service having a first (customer) characteristic,

observing at the network(col 1 lines 4-6)(col 1 line 54-col 2 line 8), that the provided service to

the subscriber has a second characteristic of vendor(col 2 lines 11-27) and billing the subscriber

for the service having the second characteristic of the vendor rather than for the service having the

first characteristic(col 2 line 11-19)(col 2 lines 28-36)(col 4 line 56-col 5 line 10)(col 6 lines 36-

46) and billing the subscriber for the secure, cost effective secure(col 2 lines 42-50)networking

transmission service having the second characteristic with the vendor rather than the service

having the first characteristic(Fig 2/16)(col 4 line 57-col 5 line 10).

7. As per claim 2, Egendorf teaches the method of claim 1 wherein observing further comprises

determining at the network that resources are not available for providing the first level of

service(col 2 line 12) and, in response to said determination, providing a second level of secure

networking transmission service(col 5 lines 43-60)(col 2 lines 11-50).

8. As per claim 3, Egendorf teaches the method of claim 2 wherein providing the second level(col

2 lines 11-27) of service further comprises reassessing and redefining the deployed networking

transmission service(Fig 1)(Fig 3)(col 5 lines 50-55)(col 7 lines 1-10).

9.(NEW) As per claim 11 Egendorf teaches a computer implemented method(col 4 lines 40-56)

comprising providing a subscriber with a networking policy having a first level of service(col 1

lines 4-6)(col 1 line 54-col 2 line 8) and collecting data from the network using an accounting

process that collects different kinds of metrics from the network, correlates the metrics to

specified network flows, and relates the collected and correlated metrics back to the policy that

was defined with the first level of service and billing the subscriber for the networking policy

having a second level of service(col 2 lines 11-27)(col 2 lines 28-36)(col 4 line 56-col 5 line

10)(col 6 lines 36-46) rather than the policy having the first level of service.

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10. (NEW) As per claim 12 Egendorf teaches the method of claim 11 further comprising

providing an indication whether or not the policy with the first characteristic is being satisfied(col

2 line 12).

11.(NEW) As per claim 13 Egendorf teaches the method of claim 11 comprising determining at

the network that resources are not available for providing the transmission servbiceat the first

level and in response to this, providing a second level of networking service(col 5 lines 43-60)(col

2 lines 11-50).

12. (NEW) As per claim 14 Egendorf teaches the method of claim 13 wherein providing the

second level(col 2 lines 11-27) of networking transmission service further comprises reassessing

and redefining the deployed networking service(Fig 1)(Fig 3)(col 5 lines 50-55)(col 7 lines 1-10).

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Claim Rejections - 35 USC § 103

13.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

14.   Claims 4-5 and 15-16 are rejected under 35 USC 103(a) as unpatentable over

Egendorf(US Pat. No: 5,794,221) and further in view of Hilt(US Pat. No: 5,465,206).

15. As per claim 4, Hilt teaches the method of claim 3 wherein the process observes whether

reassessment and redefining of the deployed networking transmission policy was successful(col 13

line 67-col 14 line 31)(col 15 lines 2-55)(col 22 lines 2-17)(Fig 12/158/124). It would have been

obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Hilt

to teach the above. The motivation is to teach a network for aggregating data for subsequent use.

16. As per claim 5, Hilt teaches the method of claim 1 further comprising determining whether

there has been packet loss(col 16 line 57-col 17 line 13) and wherein determining packet loss

includes deploying a packet detector monitor in the network to generate network accounting

records that can be used to determine packet loss(Fig 6/160). It would have been obvious to one

skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the

above. The motivation is to teach a network for aggregating data for subsequent use.

17.(NEW) As per claim 15, Hilt teaches the method of claim 14 wherein the process observes

whether reassessment and redefining of the deployed networking transmission policy was

successful(col 13 line 67-col 14 line 31)(col 15 lines 2-55)(col 22 lines 2-17)(Fig 12/158/124). It

would have been obvious to one skilled in the art at the time of the invention to combine

Egendorf in view of Hilt to teach the above. The motivation is to teach a network for aggregating

data for subsequent use.

18.(NEW) As per claim 16, Hilt teaches the method of claim 11 further comprising determining

whether there has been packet loss(col 16 line 57-col 17 line 13) and wherein determining packet

loss includes deploying a packet detector monitor in the network to generate network accounting

records that can be used to determine packet loss(Fig 6/160). It would have been obvious to one

skilled in the art at the time of the invention to combine Egendorf in view of Hilt to teach the

above. The motivation is to teach a network for aggregating data for subsequent use.

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19. Claims 6-10 and 17-20 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US

Pat. No: 5,794,221) and further in view of Melen(US Pat. No: 5,956,391).

20. As per claim 6, Melen teaches the method of claim 1 wherein the providing further comprises

establishing a differentiate services policy that is decomposed into a collection of configurations

and deployed in a network(col 6 line 26-col 7 line 8).It would have been obvious to one skilled in

the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The

motivation is to teach a network for aggregating data for subsequent use.

21. As per claim 7, Melen teaches the method of claim 1 wherein the providing further comprises

deploying the configurations to a collection of routers(Fig 1/6/10) or switches(Fig 1/4) that the

customer would have access to in the network(Fig 1/1/2). It would have been obvious to one

skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the

above. The motivation is to teach a network for aggregating quality data for subsequent use from

a plurality of routers.

22. As per claim 8, Melen teaches the method of claim 1 wherein observing observes a large

number of network flows(Fig 2)(Fig 3).It would have been obvious to one skilled in the art at the

time of the invention to combine Egendorf in view of Melen to teach the above. The motivation is

to teach a network for monitoring the quantity of data.

23. As per claim 9, Melen teaches the method of claim 8 wherein observing further comprises

using an accounting process that produces information at a granularity level at which the policies

are actually deployed(Fig 3)(col 9 lines 33-49). It would have been obvious to one skilled in the

art at the time of the invention to combine Egendorf in view of Melen to teach the above. The

motivation is to teach an accounting provess from which to develop policy on information use.

24. As per claim 10, Melen teaches the method of claim 9 wherein the policies are deployed at

source and destination IP address, protocol and/or destination port level(col 4 line 53-col 5 line

35).It would have been obvious to one skilled in the art at the time of the invention to combine

Egendorf in view of Melen to teach the above. The motivation is to teach a network for

establishing data policies at source and destination levels in the throughput process.

25.(NEW) As per claim 17, Melen teaches the method of claim 11 wherein the providing further

comprises establishing a differentiate services policy that is decomposed into a collection of

configurations and deployed in a network(col 6 line 26-col 7 line 8).It would have been obvious

to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to

teach the above. The motivation is to teach a network for aggregating data for subsequent use.

26.(NEW) As per claim 18, Melen teaches the method of claim 11 wherein the providing further

comprises deploying the configurations to a collection of routers(Fig 1/6/10) or switches(Fig 1/4)

that the customer would have access to in the network(Fig 1/1/2). It would have been obvious to

one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach

the above. The motivation is to teach a network for aggregating quality data for subsequent use from a plurality of routers.

27.(NEW) As per claim 19, Melen teaches the method of claim 18 wherein observing further comprises using an accounting process that produces information at a granularity level at which the policies are actually deployed(Fig 3)(col 9 lines 33-49). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation is to teach an accounting provess from which to develop policy on information use.

28. (NEW)As per claim 20, Melen teaches the method of claim 9 wherein the policies are deployed at source and destination IP address, protocol and/or destination port level(col 4 line 53-col 5 line 35).It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation is to teach a network for establishing data policies at source and destination levels in the throughput process.

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Conclusion

29.   **THIS ACTION IS MADE NON-FINAL.**

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Any questions regarding this communication may be directed to the examiner, Dr. Geoffrey Akers, P.E. who can be telephoned at (703)-306-5844 between the hours of 6:30 AM and 5:00

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PM Monday through Friday. If attempts to contact the examiner are unsuccessful, the examiner's

supervisor, Mr. Vincent Millin, may be contacted at (703)-308-1065.

GRA

December 14, 2001